



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/938,269 | 08/23/2001 | Richard Franklin | 314572-105 | 1197 |
| 7590 02/23/2005 | | | EXAMINER | |
| HENRY D COLEMAN COLEMAN SUDOL SAPONE, P. C. 714 COLORADO AVENUE BRIDGEPORT, CT 06605 | | | FUBARA, BLESSING M | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1615 | |

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/938,269

Applicant(s)

FRANKLIN ET AL

Examiner

Blessing M. Fubara

Art Unit

1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 4, 6, 7, 13, 15-20, 25 and 26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 8-12, 14 and 21-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>03/12/02; 02/05/04; 10/21/04</u> | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 1615

DETAILED ACTION

Examiner acknowledges receipt of response to Election/Restriction requirement and IDS filed 10/21/04 and IDS filed 02/05/04.

Priority

An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence(s) of the specification or in an application data sheet by identifying the prior application by application number (37 CFR 1.78(a)(2) and (a)(5)). If the prior application is a non-provisional application, the specific reference must also include the relationship (i.e., continuation, divisional, or continuation-in-part) between the applications except when the reference is to a prior application of a CPA assigned the same application number.

Election/Restrictions

1. Applicants' election with traverse of Group 1 in the reply filed on 10/21/04 is acknowledged. The traversal is on the ground(s) that the pending claims are directed to pre-formed hydrolytically susceptible polyanionic polymers, which may be used to treat adhesions, and that the invention as originally presented may be readily examined without serious burden on the Examiner. This is not found persuasive because the method of isolating a multifunctional proteolytic enzyme using fresh water is not treating adhesions with polyanionic polymer. Take also, for example, the polyanionic polymers represented by claim 3 ought to be limited to a

Art Unit: 1615

specific single polymer for prosecution. This is also true for claims 11 and 12. Applicants identify claims 1-3, 5, 8-12, 14 and 21-24 to read on the elected species. Claims 4, 6, 7, 13, 15-20, 25 and 26 are withdrawn from consideration.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 5 recites the limitation "linearly linked polyanionic" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 5 depends on claim 1, which does not recite linearly linked polyanionic segment.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 5, 8-12, 14, 21-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Roufa et al. (5,705,178).

Roufa discloses administering to surgical wound site an inhibitory-adhesive composition (abstract; column 16, lines 39-48; column 17, lines 17-22) and the inhibitory composition comprises alginic acid, a polyanionic polymer (column 30, lines 24, 25, 49 and 50). When

Art Unit: 1615

dextran is used as the polyanionic polymer, the molecular weight is 5 kD, 8kd, 500 kD or 2,000 kD (column 30, lines 59-67).

Applicants had further elected internal trauma, and adhesion specifically. Applicants elected carbopol as a polyanionic polymer that satisfies the chemical structure in of claim 3. However, the search is extended to the general polyanionic polymer and alginic acid, sulfated dextrans meet the limitation.

Roufa meets the limitations of the claims.

Observation:

Claim 6 has method steps missing and is an incomplete claim.

Claim 1 states in (a) that the polyanionic polymer is not a microgel but the invention appears to be concerned with microgel. Explanation is respectfully requested.

6. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicants' cooperation is requested in correcting any errors of which applicants may become aware in the specification.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blessing M. Fubara whose telephone number is (571) 272-0594. The examiner can normally be reached on 7 a.m. to 3:30 p.m. (Monday to Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1615

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Blessing Fubara
Patent Examiner
Tech. Center 1600

A handwritten signature in black ink, appearing to read "Blessing Fubara", is written over the printed name of the Patent Examiner.